

IN RE: PETITION FOR VARIANCE
NW/Corner Silver Spring and
Belair Roads - (Perry Hall
Crossing Shopping Center)
11th Election District
5th Councilmanic District
Silver Bell Associates, a
Maryland Partnership -
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-79-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, Silver Bell Associates, a Maryland Partnership, by Robert C. Levin, General Partner, through their attorney, Benjamin Bronstein, Esquire. The Petitioners request relief from Section 421.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a pet shop within 50 feet of a residential zone in lieu of the required 200 feet, as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petitioners were Tom Martel representing Silver Bell Associates; Bob Biel, Project Manager for Pet Stuff, the proposed tenant; Jim Kline, Professional Engineer with George W. Stephens, Jr. and Associates, Inc.; and Jim McDonough, adjoining property owner. There were no Protestants present at the hearing.

Testimony indicated that the subject property, located at the corner of Silver Spring Road and Belair Road in Perry Hall is the site of the Perry Hall Crossing Shopping Center. The Petitioners are desirous of leasing 20,525 sq. ft. of space for an indoor pet shop known as Pet Stuff. Due to the shopping center's close proximity to a residential area, the relief requested is necessary in order to proceed as proposed. The Petitioners testified that the use proposed will not be detrimental to the

health, safety or general welfare of the surrounding residential uses as the nearest dwelling unit is several hundred feet away. Further testimony indicated that there will be no outside storage of animals. Testimony revealed that the space to be occupied by Pet Stuff was formerly part of a larger area occupied by the Channel hardware store which has since gone out of business.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Seley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the require-

ments from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 12th day of October, 1993 that the Petition for Variance requesting relief from Section 421.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a pet shop within 50 feet of a residential zone in lieu of the required 200 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

Timothy M. Kunkel
TIMOTHY M. KUNKEL
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113, Courthouse
400 Washington Avenue
Towson, MD 21204

October 12, 1993

1439 867 136

Benjamin Bronstein
29 W. Susquehanna Avenue, Suite 205
Towson, Maryland 21204

RE: PETITION FOR VARIANCE
NW/Corner Silver Spring Road and Belair Road
(Perry Hall Crossing Shopping Center)
11th Election District - 5th Councilmanic District
Silver Bell Associates - Petitioners
Case No. 94-79-A

Dear Mr. Bronstein:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered in the above-captioned matter, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this order. For further information on filing an appeal, please contact the Zoning Administration and Development Management Office at 887-1191.

Very truly yours,

Timothy M. Kunkel
TIMOTHY M. KUNKEL
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: People's Counsel

File

ORDER RECEIVED FOR FILING
Date 10/12/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 10/12/93
By [Signature]

ORDER RECEIVED FOR FILING
Date 10/12/93
By [Signature]

- 3 -



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at
Northwest corner of Intersection of
Belair Road and Silver Spring Road
which is presently zoned BL

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 421.2 to permit a pet shop within 50 feet of a residential zone in lieu of the required 200 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

1. Configuration of site.
2. And such other and further reasons as may be demonstrated at time of hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations. If we agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Consent/Purchaser Name

(Type or Print Name)

Signature

Address

City State Zip Code

Attorney for Petitioner: Benjamin Bronstein

Evans, George and Bronstein

(Type or Print Name)

29 W. Susquehanna Ave., Ste 205 296-0200

Towson, Maryland 21204

State Zip Code

(We do solemnly declare and affirm, under the penalties of perjury, that we are the legal owner(s) of the property which is the subject of this Petition.)

Legal Owner(s): Silver Bell Associates, a Maryland Partnership

(Type or Print Name)

Robert C. Levin

Robert C. Levin, General Partner

(Type or Print Name)

Signature

Ste 1100 One North Charles Street (727-8300)

Baltimore, Maryland 21201

City State Zip Code

Name Address and phone number of legal owner, correct purchaser or representative to be contacted.

G.W. Stephens and Associates

658 Kenilworth Drive, Towson, MD 21204

State Zip Code Phone No. 825-8120

ESTIMATED LENGTH OF HEARING

unavailable for hearing

the following date: Next Two Months

ALL OTHER DATE

REVIEWED BY: JCL DATE 9-18-93

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS JR. & ASSOCIATES, INC.

COUNSELORS
100 KENNILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

Description to Accompany a
Zoning Petition.

August 17, 1993

RE: Perry Hall Crossing
(Pet Stuff)

Beginning at a point located North 24° 30' East 883 feet from the point of intersection of the center lines of Belair Road and Silver Spring Road thence in a clockwise direction:

- 1 - North 47° 11' West 35 feet
 - 2 - North 42° 49' East 10 feet
 - 3 - North 47° 11' West 120 feet
 - 4 - South 42° 49' West 10 feet
 - 5 - North 47° 11' West 25 feet
 - 6 - North 42° 49' East 125 feet
 - 7 - South 47° 11' East 25 feet
 - 8 - South 42° 49' West 5 feet
 - 9 - South 47° 11' East 155 feet and
 - 10 - South 42° 49' West 120 feet to the place of beginning.
- Containing 20,525 square feet of land more or less.

THIS DESCRIPTION IS FOR ZONING PURPOSES ONLY AND NOT TO BE USED IN CONVEYANCES AND AGREEMENTS.

76



CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 11th Date of Posting: 9/1/93
Posted for: Variance
Petitioner: Silver Bell Assoc.
Location of property: Perry Hall Crossing Shopping Center
NW/Corner Silver Spring Rd.
Location of Signs: Signs placed on all four corners of the
intersection of building area being zoned.
Remarks: See attached
Posted by: [Signature] Date of return: 9/1/93
Number of Signs: 4

CERTIFICATE OF PUBLICATION

TOWSON, MD. Sept. 2, 1993

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Sept. 2, 1993.

THE JEFFERSONIAN,

A. Henikson
LEGAL AD. - TOWSON
Publisher

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 105 of the County Office Building, located at 110 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 110, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 at 10:00 a.m.

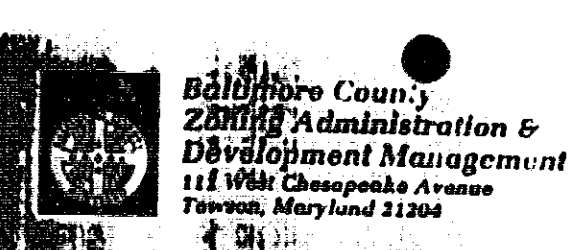
Case Number: 94-79-A
(Item 10)
Perry Hall Crossing Shopping Center
NW/Corner Silver Spring Road and Belair Road
11th Election District
5th Councilmanic District

Silver Bell Associates, a Maryland Partnership
100 Kenilworth Drive, Towson, MD 21204
October 6, 1993 at 1:00 p.m. in the 10th County Office Building

Variance to permit a pet shop within 50 feet of a residential zone in lieu of the required 200 feet.

LAWRENCE E. SCHMIDT, Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are held on Wednesdays or Thursdays. (2) For information concerning the hearing, please call 887-3331. 0000 September 2



8-18-93

SILVER BELL ASSOC. - NW/Corner Silver Spring Rd.

VARIANCE (020)

POSTING (080)

94-79-A

02A020041311C

Please Make Checks Payable To: Baltimore County

Cashier Validation

ORDER RECEIVED FOR FILING
Date 10/12/93
By [Signature]

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

PAYMENT WILL BE MADE AS FOLLOWS:

- 1) Posting fees will be assessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

Arnold Jablon
ARNOLD JABLON, DIRECTOR

For newspaper advertising:
Item No.: 76
Petitioner: Benjamin Branstetter, Esquire
Location: 29 W. Susquehanna Avenue, Suite 255, Towson, Maryland 21204

PLEASE FORWARD ADVERTISING BILL TO:
NAME: Benjamin Branstetter, Esquire
ADDRESS: 29 W. Susquehanna Avenue, Suite 255, Towson, Maryland 21204
PHONE NUMBER: 410-296-0200

AJ:ggg (Revised 04/09/93)

TO: PUTNAM PUBLISHING COMPANY
September 2, 1993 Issue - Jeffersonian

Please forward billing to:
Benjamin Branstetter, Esq.
29 W. Susquehanna Avenue #255
Towson, Maryland 21204
410-296-0200

COPY

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-79-A (Item 76)
(Perry Hall Crossing Shopping Center)
M&C Intersection Silver Spring Road and Belair Road
11th Election District - 5th Councilmanic
Petitioner(s): Silver Bell Associates, a Maryland Partnership
HEARING: WEDNESDAY, OCTOBER 6, 1993 at 2:00 p.m. in Rm. 106, County Office Building.

Variance to permit a pet shop within 50 feet of a residential zone in lieu of the required 200 feet.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

August 27, 1993

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-79-A (Item 76)
(Perry Hall Crossing Shopping Center)
M&C Intersection Silver Spring Road and Belair Road
11th Election District - 5th Councilmanic
Petitioner(s): Silver Bell Associates, a Maryland Partnership
HEARING: WEDNESDAY, OCTOBER 6, 1993 at 2:00 p.m. in Rm. 106, County Office Building.

Variance to permit a pet shop within 50 feet of a residential zone in lieu of the required 200 feet.

Arnold Jablon
Arnold Jablon
Director

cc: Robert C. Levin/Silver Bell Associates
G. W. Stephens and Associates
Benjamin Branstetter, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204 (410) 887-3353

September 21, 1993

Benjamin Branstetter, Esquire
29 W. Susquehanna Avenue, Suite 255
Towson, Maryland 21204

RE: Case No. 94-79-A, Item No. 76
Petitioner: Silver Bell Associates, a Maryland Partnership
Petition for Variance

Dear Mr. Branstetter:

The Zoning Plans Advisory Committee (ZPAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plan or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZPAC that offer or request information on your petition. If additional comments are received from other members of ZPAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on August 18, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

MDOT
Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

8-26-93

Re: Baltimore County
Item No.: 76 (JCM)

Ms. Helene Kehring
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Dear Ms. Kehring:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
Bob Small
for John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is _____
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 383-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: August 30, 1993

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):
Item Nos. 62, 71, 72, 73, 74, 76, 77, 78, 81, 82, 84, 86, 87 and 88.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3490.

Prepared by: *Jeffrey W. Long*
Division Chief: *Barry L. Kern*

PK/JL:lw

NOTE TO FILE: 8-18-93

*Advised applicant to verify
correct address of property -*

JM

76

